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**SENATE BILL 5761**

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**State of Washington                      59th Legislature                      2005 Regular Session**

**By** Senators Doumit, Oke, Swecker, Morton and Rasmussen

Read first time 02/04/2005.      Referred to Committee on Natural Resources, Ocean & Recreation.

1            AN ACT Relating to forest practices as they affect family forest  
2 landowners; and amending RCW 76.09.010, 76.09.020, 76.09.040,  
3 76.09.368, 76.09.410, 76.09.420, 76.09.440, 76.09.450, 77.12.755,  
4 76.13.100, 76.13.110, 76.13.120, 76.13.140, 76.13.150, and 76.13.160.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            **Sec. 1.** RCW 76.09.010 and 1999 sp.s. c 4 s 901 are each amended to  
7 read as follows:

8            (1) The legislature hereby finds and declares that the forest land  
9 resources are among the most valuable of all resources in the state;  
10 that a viable forest products industry is of prime importance to the  
11 state's economy; that it is in the public interest for public and  
12 private commercial forest lands to be managed consistent with sound  
13 policies of natural resource protection; that coincident with  
14 maintenance of a viable forest products industry, it is important to  
15 afford protection to forest soils, fisheries, wildlife, water quantity  
16 and quality, air quality, recreation, and scenic beauty.

17            (2) The legislature further finds and declares it to be in the  
18 public interest of this state to create and maintain through the

1 adoption of this chapter a comprehensive statewide system of laws and  
2 forest practices rules which will achieve the following purposes and  
3 policies:

4 (a) Afford protection to, promote, foster and encourage timber  
5 growth, and require such minimum reforestation of commercial tree  
6 species on forest lands as will reasonably utilize the timber growing  
7 capacity of the soil following current timber harvest;

8 (b) Afford protection to forest soils and public resources by  
9 utilizing all reasonable methods of technology in conducting forest  
10 practices;

11 (c) Recognize both the public and private interest in the  
12 profitable growing and harvesting of timber;

13 (d) Promote efficiency by permitting maximum operating freedom  
14 consistent with the other purposes and policies stated herein;

15 (e) Provide for regulation of forest practices so as to avoid  
16 unnecessary duplication in such rules;

17 (f) Provide for interagency input and intergovernmental and tribal  
18 coordination and cooperation;

19 (g) Achieve compliance with all applicable requirements of federal  
20 and state law with respect to nonpoint sources of water pollution from  
21 forest practices;

22 (h) To consider reasonable land use planning goals and concepts  
23 contained in local comprehensive plans and zoning regulations;

24 (i) Foster cooperation among managers of public resources, forest  
25 landowners, Indian tribes and the citizens of the state; and

26 (j) Develop a watershed analysis system that addresses the  
27 cumulative effect of forest practices on, at a minimum, the public  
28 resources of fish, water, and public capital improvements of the state  
29 and its political subdivisions.

30 (3) The legislature further finds and declares that it is also in  
31 the public interest of the state to encourage forest landowners to  
32 undertake corrective and remedial action to reduce the impact of mass  
33 earth movements and fluvial processes.

34 (4) The legislature further finds and declares that it is in the  
35 public interest that the applicants for state forest practices permits  
36 should assist in paying for the cost of review and permitting necessary  
37 for the environmental protection of these resources.

38 (5) The legislature further finds and declares that:

1       (a) The long-term stewardship that is provided by family forest  
2 landowners in urban growth areas and rural areas is important for  
3 maintaining the evergreen state's special character and quality of life  
4 and provides citizens living in the urban/rural interface with an  
5 important buffer that provides aesthetic values at minimal cost to the  
6 taxpayers;

7       (b) Many family forest landowners live and raise their families on  
8 their forest land, or otherwise foster intergenerational involvement,  
9 creating an emotional attachment to and love for the land that  
10 increases the likelihood of continued ownership and management of  
11 family forests by future generations;

12       (c) Many family forests are characterized by a "light touch on the  
13 land." This includes: Species diversity; low-impact harvesting; small  
14 harvest openings and long stand rotations with multiple thinning  
15 entries; and a variety of nontimber management objectives that benefit  
16 the public;

17       (d) Family forest landowners provide: Family wage jobs to their  
18 local communities; a reliable tax base to their counties, generally  
19 utilizing fewer public services than taxes paid; and a way of life  
20 integral to rural communities;

21       (e) Family forest lands provide significant benefits to the  
22 economic and environmental well-being of Washington's citizens,  
23 including: Clean air and water; habitat for a broad array of fish,  
24 wildlife, and plant species, including some threatened and endangered  
25 species; and a variety of renewable natural resource products;

26       (f) If these lands were to be converted to nonforestry uses, these  
27 benefits would be lost to future generations as well as current  
28 generations of citizens;

29       (g) Current forest practices rules and other administrative  
30 regulations and complexity pose significant challenges to the continued  
31 ownership and management of family forests, creating a disincentive to  
32 their continued management as forest lands and are among the causes of  
33 their conversion to nonforest land uses;

34       (h) It is in the best interests of the citizens of the state of  
35 Washington and the environment that legislation and rules be developed  
36 and implemented that will encourage family forest ownership and long-  
37 term management planning; and

1       (i) It is also in the best interests of the citizens of the state  
2 of Washington and the environment that family forest landowners and the  
3 state of Washington are given the opportunity to enter into long-term  
4 management plans that will provide enhanced flexibility and secure the  
5 many benefits of forest land management for current and future  
6 generations of Washington citizens.

7       **Sec. 2.** RCW 76.09.020 and 2003 c 311 s 3 are each amended to read  
8 as follows:

9       The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

11       (1) "Adaptive management" means reliance on scientific methods to  
12 test the results of actions taken so that the management and related  
13 policy can be changed promptly and appropriately.

14       (2) "Appeals board" means the forest practices appeals board  
15 created by RCW 76.09.210.

16       (3) "Aquatic resources" includes water quality, salmon, other  
17 species of the vertebrate classes Cephalaspidomorphi and Osteichthyes  
18 identified in the forests and fish report, the Columbia torrent  
19 salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander  
20 (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton*  
21 *olympian*), the Dunn's salamander (*Plethodon dunnii*), the Van Dyke's  
22 salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and  
23 their respective habitats.

24       (4) "Commissioner" means the commissioner of public lands.

25       (5) "Contiguous" means land adjoining or touching by common corner  
26 or otherwise. Land having common ownership divided by a road or other  
27 right of way shall be considered contiguous.

28       (6) "Conversion to a use other than commercial timber operation"  
29 means a bona fide conversion to an active use which is incompatible  
30 with timber growing and as may be defined by forest practices rules.

31       (7) "Department" means the department of natural resources.

32       (8) "Fish passage barrier" means any artificial instream structure  
33 that impedes the free passage of fish.

34       (9) "Forest land" means all land which is capable of supporting a  
35 merchantable stand of timber and is not being actively used for a use  
36 which is incompatible with timber growing. Forest land does not  
37 include agricultural land that is or was enrolled in the conservation

1 reserve enhancement program by contract if such agricultural land was  
2 historically used for agricultural purposes and the landowner intends  
3 to continue to use the land for agricultural purposes in the future.  
4 As it applies to the operation of the road maintenance and abandonment  
5 plan element of the forest practices rules on (~~small~~) family forest  
6 landowners, the term "forest land" excludes:

- 7 (a) Residential home sites, which may include up to five acres; and
- 8 (b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens,  
9 and the land on which appurtenances necessary to the production,  
10 preparation, or sale of crops, fruit, dairy products, fish, and  
11 livestock exist.

12 (10) "Forest landowner" means any person in actual control of  
13 forest land, whether such control is based either on legal or equitable  
14 title, or on any other interest entitling the holder to sell or  
15 otherwise dispose of any or all of the timber on such land in any  
16 manner. However, any lessee or other person in possession of forest  
17 land without legal or equitable title to such land shall be excluded  
18 from the definition of "forest landowner" unless such lessee or other  
19 person has the right to sell or otherwise dispose of any or all of the  
20 timber located on such forest land.

21 (11) "Forest practice" means any activity conducted on or directly  
22 pertaining to forest land and relating to growing, harvesting, or  
23 processing timber, including but not limited to:

- 24 (a) Road and trail construction;
- 25 (b) Harvesting, final and intermediate;
- 26 (c) Precommercial thinning;
- 27 (d) Reforestation;
- 28 (e) Fertilization;
- 29 (f) Prevention and suppression of diseases and insects;
- 30 (g) Salvage of trees; and
- 31 (h) Brush control.

32 "Forest practice" shall not include preparatory work such as tree  
33 marking, surveying and road flagging, and removal or harvesting of  
34 incidental vegetation from forest lands such as berries, ferns,  
35 greenery, mistletoe, herbs, mushrooms, and other products which cannot  
36 normally be expected to result in damage to forest soils, timber, or  
37 public resources.

- 1 (12) "Forest practices rules" means any rules adopted pursuant to  
2 RCW 76.09.040.
- 3 (13) "Forest road," as it applies to the operation of the road  
4 maintenance and abandonment plan element of the forest practices rules  
5 on (~~small~~) family forest landowners, means a road or road segment  
6 that crosses land that meets the definition of forest land, but  
7 excludes residential access roads.
- 8 (14) "Forest trees" does not include hardwood trees cultivated by  
9 agricultural methods in growing cycles shorter than fifteen years if  
10 the trees were planted on land that was not in forest use immediately  
11 before the trees were planted and before the land was prepared for  
12 planting the trees. "Forest trees" includes Christmas trees, but does  
13 not include Christmas trees that are cultivated by agricultural  
14 methods, as that term is defined in RCW 84.33.035.
- 15 (15) "Forests and fish report" means the forests and fish report to  
16 the board dated April 29, 1999.
- 17 (16) "Application" means the application required pursuant to RCW  
18 76.09.050.
- 19 (17) "Operator" means any person engaging in forest practices  
20 except an employee with wages as his or her sole compensation.
- 21 (18) "Person" means any individual, partnership, private, public,  
22 or municipal corporation, county, the department or other state or  
23 local governmental entity, or association of individuals of whatever  
24 nature.
- 25 (19) "Public resources" means water, fish and wildlife, and in  
26 addition shall mean capital improvements of the state or its political  
27 subdivisions.
- 28 (20) "~~Small~~) Family forest landowner" has the same meaning as  
29 defined in RCW 76.09.450.
- 30 (21) "Timber" means forest trees, standing or down, of a commercial  
31 species, including Christmas trees. However, "timber" does not include  
32 Christmas trees that are cultivated by agricultural methods, as that  
33 term is defined in RCW 84.33.035.
- 34 (22) "Timber owner" means any person having all or any part of the  
35 legal interest in timber. Where such timber is subject to a contract  
36 of sale, "timber owner" shall mean the contract purchaser.
- 37 (23) "Board" means the forest practices board created in RCW  
38 76.09.030.

1 (24) "Unconfined avulsing channel migration zone" means the area  
2 within which the active channel of an unconfined avulsing stream is  
3 prone to move and where the movement would result in a potential near-  
4 term loss of riparian forest adjacent to the stream. Sizeable islands  
5 with productive timber may exist within the zone.

6 (25) "Unconfined avulsing stream" means generally fifth order or  
7 larger waters that experience abrupt shifts in channel location,  
8 creating a complex flood plain characterized by extensive gravel bars,  
9 disturbance species of vegetation of variable age, numerous side  
10 channels, wall-based channels, oxbow lakes, and wetland complexes.  
11 Many of these streams have dikes and levees that may temporarily or  
12 permanently restrict channel movement.

13 **Sec. 3.** RCW 76.09.040 and 2000 c 11 s 3 are each amended to read  
14 as follows:

15 (1) Where necessary to accomplish the purposes and policies stated  
16 in RCW 76.09.010, and to implement the provisions of this chapter, the  
17 board shall adopt forest practices rules pursuant to chapter 34.05 RCW  
18 and in accordance with the procedures enumerated in this section that:

19 (a) Establish minimum standards for forest practices;

20 (b) Provide procedures for the voluntary development of resource  
21 management plans which may be adopted as an alternative to the minimum  
22 standards in (a) of this subsection if the plan is consistent with the  
23 purposes and policies stated in RCW 76.09.010 and the plan meets or  
24 exceeds the objectives of the minimum standards;

25 (c) Set forth necessary administrative provisions;

26 (d) Establish procedures for the collection and administration of  
27 forest practice fees as set forth by this chapter; and

28 (e) Allow for the development of watershed analyses.

29 Forest practices rules pertaining to water quality protection shall  
30 be adopted by the board after reaching agreement with the director of  
31 the department of ecology or the director's designee on the board with  
32 respect thereto. All other forest practices rules shall be adopted by  
33 the board.

34 Forest practices rules shall be administered and enforced by either  
35 the department or the local governmental entity as provided in this  
36 chapter. Such rules shall be adopted and administered so as to give  
37 consideration to all purposes and policies set forth in RCW 76.09.010.

1 (2) The board shall prepare proposed forest practices rules. In  
2 addition to any forest practices rules relating to water quality  
3 protection proposed by the board, the department of ecology may submit  
4 to the board proposed forest practices rules relating to water quality  
5 protection.

6 Prior to initiating the rule making process, the proposed rules  
7 shall be submitted for review and comments to the department of fish  
8 and wildlife and to the counties of the state. After receipt of the  
9 proposed forest practices rules, the department of fish and wildlife  
10 and the counties of the state shall have thirty days in which to review  
11 and submit comments to the board, and to the department of ecology with  
12 respect to its proposed rules relating to water quality protection.  
13 After the expiration of such thirty day period the board and the  
14 department of ecology shall jointly hold one or more hearings on the  
15 proposed rules pursuant to chapter 34.05 RCW. At such hearing(s) any  
16 county may propose specific forest practices rules relating to problems  
17 existing within such county. The board may adopt and the department of  
18 ecology may approve such proposals if they find the proposals are  
19 consistent with the purposes and policies of this chapter.

20 (3) The board, when adopting rules, shall consider how to  
21 accomplish the intent of the new rules while encouraging continued  
22 family forest land ownership and management.

23 (4) The legislature has given the board authority to implement  
24 long-term management plans as forest practice applications through  
25 alternate plans and other means for family forest landowners. The  
26 needs of family forest landowners for longer term approval of  
27 management plans are not being met as the legislature intended. The  
28 board shall work with the department, the small forest landowner  
29 advisory committee, and other stakeholders to expeditiously authorize  
30 approval of long-term plans for family forest landowners.

31 (5) The board shall explore other family forest issues, such as a  
32 reasonable use exception, continued conversion pressures, and  
33 regulatory incentives. The board shall report to the commissioner of  
34 public lands, the governor, and the legislature on its progress in  
35 addressing these and other family forest issues by June 30th of each  
36 odd-numbered year.

37 (6) The board shall establish by rule a riparian open space program  
38 that includes acquisition of a fee interest in, or at the landowner's

1 option, a conservation easement on lands within unconfined avulsing  
2 channel migration zones. Once acquired, these lands may be held and  
3 managed by the department, transferred to another state agency,  
4 transferred to an appropriate local government agency, or transferred  
5 to a private nonprofit nature conservancy corporation, as defined in  
6 RCW 64.04.130, in fee or transfer of management obligation. The board  
7 shall adopt rules governing the acquisition by the state or donation to  
8 the state of such interest in lands including the right of refusal if  
9 the lands are subject to unacceptable liabilities. The rules shall  
10 include definitions of qualifying lands, priorities for acquisition,  
11 and provide for the opportunity to transfer such lands with limited  
12 warranties and with a description of boundaries that does not require  
13 full surveys where the cost of securing the surveys would be  
14 unreasonable in relation to the value of the lands conveyed. The rules  
15 shall provide for the management of the lands for ecological protection  
16 or fisheries enhancement. Because there are few, if any, comparable  
17 sales of forest land within unconfined avulsing channel migration  
18 zones, separate from the other lands or assets, these lands are likely  
19 to be extraordinarily difficult to appraise and the cost of a  
20 conventional appraisal often would be unreasonable in relation to the  
21 value of the land involved. Therefore, for the purposes of voluntary  
22 sales under this section, the legislature declares that these lands are  
23 presumed to have a value equal to: (a) The acreage in the sale  
24 multiplied by the average value of commercial forest land in the region  
25 under the land value tables used for property tax purposes under RCW  
26 (~~(84.33.120)~~) 84.33.140; plus (b) the cruised volume of any timber  
27 located within the channel migration multiplied by the appropriate  
28 quality code stumpage value for timber of the same species shown on the  
29 appropriate table used for timber harvest excise tax purposes under RCW  
30 84.33.091. For purposes of this section, there shall be an eastside  
31 region and a westside region as defined in the forests and fish report  
32 as defined in RCW 76.09.020.

33 ~~((4))~~ (7) Subject to appropriations sufficient to cover the cost  
34 of such an acquisition program and the related costs of administering  
35 the program, the department is directed to purchase a fee interest or,  
36 at the owner's option, a conservation easement in land that an owner  
37 tenders for purchase; provided that such lands have been taxed as  
38 forest lands and are located within an unconfined avulsing channel

1 migration zone. Lands acquired under this section shall become  
2 riparian open space. These acquisitions shall not be deemed to trigger  
3 the compensating tax of chapters 84.33 and 84.34 RCW.

4 ~~((+5+))~~ (8) Instead of offering to sell interests in qualifying  
5 lands, owners may elect to donate the interests to the state.

6 ~~((+6+))~~ (9) Any acquired interest in qualifying lands by the state  
7 under this section shall be managed as riparian open space.

8 **Sec. 4.** RCW 76.09.368 and 2002 c 120 s 4 are each amended to read  
9 as follows:

10 The legislature intends that ~~((small))~~ family forest landowners  
11 have access to alternate plan processes or alternate harvest  
12 restrictions, or both if necessary, that meet the public resource  
13 protection standard set forth in RCW 76.09.370(3), but which also  
14 lowers the overall cost of regulation to ~~((small))~~ family forest  
15 landowners including, but not limited to, timber value forgone, layout  
16 costs, and operating costs. The forest practices board shall consult  
17 with the small forest landowner office advisory committee in developing  
18 these alternate approaches. By July 1, 2003, the forest practices  
19 board shall provide the legislature with a written report that  
20 describes the board's progress in developing alternate plan processes  
21 or alternate harvest restrictions, or both if necessary, that meet  
22 legislative intent.

23 As used in this section, "~~((small))~~ family forest landowner" has  
24 the same meaning as defined in RCW ~~((76.13.120(2)))~~ 76.09.450.

25 **Sec. 5.** RCW 76.09.410 and 2003 c 311 s 2 are each amended to read  
26 as follows:

27 (1) The state may not require a ~~((small))~~ family forest landowner  
28 to invest in upgrades, replacements, or other engineering of a forest  
29 road, and any fish passage barriers that are a part of the road, that  
30 do not threaten public resources or create a barrier to the passage of  
31 fish.

32 (2) Participation in the forests and fish agreement provides a  
33 benefit to both the landowner in terms of federal assurances, and the  
34 public in terms of aquatic habitat preservation and water quality  
35 enhancement; therefore, if conditions do threaten public resources or  
36 create a fish passage barrier, the road maintenance and abandonment

1 planning process may not require a (~~small~~) family forest landowner to  
2 take a positive action that will result in high cost without a  
3 significant portion of that cost being shared by the public.

4 (3) Some fish passage barriers are more of a threat to public  
5 resources than others; therefore, no (~~small~~) family forest landowner  
6 should be required to repair a fish passage barrier until higher  
7 priority fish passage barriers on other lands in the watershed have  
8 been repaired.

9 (4) If an existing fish passage barrier on land owned by a  
10 (~~small~~) family forest landowner was installed under an approved  
11 forest practices application or notification, and hydraulics approval,  
12 and that fish passage barrier becomes a high priority for fish passage  
13 based on the watershed ranking in RCW (~~76.13.150~~) 77.12.755, one  
14 hundred percent public funding shall be provided.

15 (5) The preparation of a road maintenance and abandonment plan can  
16 require technical expertise that may require large expenditures before  
17 the time that the landowner plans to conduct any revenue-generating  
18 operations on his or her land; therefore, (~~small~~) family forest  
19 landowners should be allowed to complete a simplified road maintenance  
20 and abandonment plan checklist, that does not require professional  
21 engineering or forestry expertise to complete, and that does not need  
22 to be submitted until the time that the landowner submits a forest  
23 practices application or notification for final or intermediate  
24 harvesting, or for salvage of trees. Chapter 311, Laws of 2003 is  
25 intended to provide an alternate way for (~~small~~) family forest  
26 landowners to comply with the road maintenance and abandonment plan  
27 goals identified in the forest practices rules.

28 **Sec. 6.** RCW 76.09.420 and 2003 c 311 s 4 are each amended to read  
29 as follows:

30 (1) The board must amend the forest practices rules relating to  
31 road maintenance and abandonment plans that exist on May 14, 2003, to  
32 reflect the following:

33 (a) A forest landowner who owns a total of eighty acres or less of  
34 forest land in Washington is not required to submit a road maintenance  
35 and abandonment plan for any block of forest land that is twenty  
36 contiguous acres or less in area;

1 (b) A landowner who satisfies the definition of a (~~small~~) family  
2 forest landowner, but who does not qualify under (a) of this  
3 subsection, is only required to submit a checklist road maintenance and  
4 abandonment plan with the abbreviated content requirements provided for  
5 in subsection (3) of this section, and is not required to comply with  
6 annual reporting and review requirements; and

7 (c) Existing forest roads must be maintained only to the extent  
8 necessary to prevent damage to public resources.

9 (2) The department must provide a landowner who is either exempted  
10 from submitting a road maintenance and abandonment plan under  
11 subsection (1)(a) of this section, or who qualifies for a checklist  
12 road maintenance and abandonment plan under subsection (1)(b) of this  
13 section, with an educational brochure outlining road maintenance  
14 standards and requirements. In addition, the department must develop  
15 a series of nonmandatory educational workshops on the rules associated  
16 with road construction and maintenance.

17 (3)(a) A landowner who qualifies for a checklist road maintenance  
18 and abandonment plan under subsection (1)(b) of this section is only  
19 required to submit a checklist, designed by the department in  
20 consultation with the small forest landowner office advisory committee  
21 created in RCW 76.13.110, that confirms that the landowner is applying  
22 the checklist criteria to forest roads covered or affected by a forest  
23 practices application or notification. When developing the checklist  
24 road maintenance and abandonment plan, the department shall ensure that  
25 the checklist does not exceed current state law. Nothing in this  
26 subsection increases or adds to (~~small~~) family forest landowners'  
27 duties or responsibilities under any other section of the forest  
28 practices rules or any other state law or rule.

29 (b) A landowner who qualifies for the checklist road maintenance  
30 and abandonment plan is not required to submit the checklist before the  
31 time that he or she submits a forest practices application or  
32 notification for final or intermediate harvesting, or for salvage of  
33 trees. The department may encourage and accept checklists prior to the  
34 time that they are due.

35 (4) The department must monitor the extent of the checklist road  
36 maintenance and abandonment plan approach and report its findings to  
37 the appropriate committees of the legislature by December 31, 2008, and  
38 December 31, 2013.

1 (5) The board shall adopt emergency rules under RCW 34.05.090 by  
2 October 31, 2003, to implement this section. The emergency rules shall  
3 remain in effect until permanent rules can be adopted. The forest  
4 practices rules that relate to road maintenance and abandonment plans  
5 shall remain in effect as they existed on May 14, 2003, until emergency  
6 rules have been adopted under this section.

7 (6) This section is only intended to relate to the board's duties  
8 as they relate to the road maintenance and abandonment plan element of  
9 the forests and fish report. Nothing in this section alters any forest  
10 landowner's duties and responsibilities under any other section of the  
11 forest practices rules, or any other state law or rule.

12 **Sec. 7.** RCW 76.09.440 and 2003 c 311 s 9 are each amended to read  
13 as follows:

14 The department shall not disapprove a forest practices application  
15 filed by a (~~small~~) family forest landowner on the basis that fish  
16 passage barriers have not been removed or replaced if the (~~small~~)  
17 family forest landowner filing the application has committed to  
18 participate in the program established in RCW 76.13.150 for all fish  
19 passage barriers existing on the block of forest land covered by the  
20 forest practices application, and the fish passage barriers existing on  
21 the block of forest land covered by the forest practices application  
22 are lower on the funding order list established for the program than  
23 the current projects that are capable of being funded by the program.

24 **Sec. 8.** RCW 76.09.450 and 2003 c 311 s 11 are each amended to read  
25 as follows:

26 For the purposes of this chapter and RCW 76.13.150 and 77.12.755,  
27 "~~small~~) family forest landowner" means (~~an owner of forest land~~)  
28 a forest landowner, except any publicly held corporation, governmental  
29 entity, nonprofit organization, or public utility, who, at the time of  
30 submission of required documentation to the department, has harvested  
31 from his or her own lands in this state no more than an average timber  
32 volume of two million board feet per year during the three years prior  
33 to submitting documentation to the department and who certifies that he  
34 or she does not expect to harvest from his or her own lands in the  
35 state more than an average timber volume of two million board feet per  
36 year during the ten years following the submission of documentation to

1 the department. However, any landowner who exceeded the two million  
2 board feet annual average timber harvest threshold from their land in  
3 the three years prior to submitting documentation to the department, or  
4 who expects to exceed the threshold during any of the following ten  
5 years, shall still be deemed a "~~((small))~~ family forest landowner" if  
6 he or she establishes to the department's reasonable satisfaction that  
7 the harvest limits were, or will be, exceeded in order to raise funds  
8 to pay estate taxes or for an equally compelling and unexpected  
9 obligation, such as for a court-ordered judgment or for extraordinary  
10 medical expenses.

11 **Sec. 9.** RCW 77.12.755 and 2003 c 311 s 10 are each amended to read  
12 as follows:

13 In coordination with the department of natural resources and lead  
14 entity groups, the department must establish a ranked inventory of fish  
15 passage barriers on land owned by ~~((small))~~ family forest landowners  
16 based on the principle of fixing the worst first within a watershed  
17 consistent with the fish passage priorities of the forest and fish  
18 report. The department shall first gather and synthesize all available  
19 existing information about the locations and impacts of fish passage  
20 barriers in Washington. This information must include, but not be  
21 limited to, the most recently available limiting factors analysis  
22 conducted pursuant to RCW 77.85.060(2), the stock status information  
23 contained in the department of fish and wildlife salmonid stock  
24 inventory (SASSI), the salmon and steelhead habitat inventory and  
25 assessment project (SSHIA), and any comparable science-based  
26 assessment when available. The inventory of fish passage barriers must  
27 be kept current and at a minimum be updated by the beginning of each  
28 calendar year. Nothing in this section grants the department or others  
29 additional right of entry onto private property.

30 **Sec. 10.** RCW 76.13.100 and 2003 c 39 s 36 are each amended to read  
31 as follows:

32 (1) The legislature finds that increasing regulatory requirements  
33 continue to diminish the economic viability of ~~((small))~~ family forest  
34 landowners. The concerns set forth in RCW 77.85.180 about the  
35 importance of sustaining forestry as a viable land use are particularly  
36 applicable to ~~((small))~~ family landowners because of the location of

1 their holdings, the expected complexity of the regulatory requirements,  
2 and the need for significant technical expertise not readily available  
3 to small landowners. The further reduction in harvestable timber owned  
4 by ((small)) family forest landowners as a result of the rules to be  
5 adopted under RCW 76.09.055 will further erode ((small)) family  
6 landowners' economic viability and willingness or ability to keep the  
7 lands in forestry use and, therefore, reduce the amount of habitat  
8 available for salmon recovery and conservation of other aquatic  
9 resources, as defined in RCW 76.09.020.

10 (2) The legislature finds that the concerns identified in  
11 subsection (1) of this section should be addressed by establishing  
12 within the department of natural resources a small forest landowner  
13 office that shall be a resource and focal point for ((small)) family  
14 forest landowner concerns and policies. The legislature further finds  
15 that a forestry riparian easement program shall be established to  
16 acquire easements from ((small)) family landowners along riparian and  
17 other areas of value to the state for protection of aquatic resources.  
18 The legislature further finds that ((small)) family forest landowners  
19 should have the option of alternate management plans or alternate  
20 harvest restrictions on smaller harvest units that may have a  
21 relatively low impact on aquatic resources. The small forest landowner  
22 office should be responsible for assisting ((small)) family landowners  
23 in the development and implementation of these plans or restrictions.

24 **Sec. 11.** RCW 76.13.110 and 2002 c 120 s 1 are each amended to read  
25 as follows:

26 (1) The department of natural resources shall establish and  
27 maintain a small forest landowner office. The small forest landowner  
28 office shall be a resource and focal point for ((small)) family forest  
29 landowner concerns and policies, and shall have significant expertise  
30 regarding the management of small forest holdings, governmental  
31 programs applicable to such holdings, and the forestry riparian  
32 easement program.

33 (2) The small forest landowner office shall administer the  
34 provisions of the forestry riparian easement program created under RCW  
35 76.13.120.

36 (3) The small forest landowner office shall assist in the  
37 development of ((small)) family landowner options through alternate

1 management plans or alternate harvest restrictions appropriate to  
2 (~~small~~) family landowners. The small forest landowner office shall  
3 develop criteria to be adopted by the forest practices board in rules  
4 and a manual for alternate management plans or alternate harvest  
5 restrictions. These alternate plans or alternate harvest restrictions  
6 shall meet riparian functions while requiring less costly regulatory  
7 prescriptions. At the landowner's option, alternate plans or alternate  
8 harvest restrictions may be used to further meet riparian functions.

9 The small forest landowner office shall evaluate the cumulative  
10 impact of such alternate management plans or alternate harvest  
11 restrictions on essential riparian functions at the subbasin or  
12 watershed level. The small forest landowner office shall adjust future  
13 alternate management plans or alternate harvest restrictions in a  
14 manner that will minimize the negative impacts on essential riparian  
15 functions within a subbasin or watershed.

16 (4) An advisory committee is established to assist the small forest  
17 landowner office in developing policy and recommending rules to the  
18 forest practices board. The advisory committee shall consist of seven  
19 members, including a representative from the department of ecology, the  
20 department of fish and wildlife, and a tribal representative. Four  
21 additional committee members shall be (~~small~~) family forest  
22 landowners who shall be appointed by the commissioner of public lands  
23 from a list of candidates submitted by the board of directors of the  
24 Washington farm forestry association or its successor organization.  
25 The association shall submit more than one candidate for each position.  
26 The commissioner shall designate two of the initial (~~small~~) family  
27 forest landowner appointees to serve five-year terms and the other two  
28 (~~small~~) family forest landowner appointees to serve four-year terms.  
29 Thereafter, appointees shall serve for a term of four years. The small  
30 forest landowner office shall review draft rules or rule concepts with  
31 the committee prior to recommending such rules to the forest practices  
32 board. The office shall reimburse nongovernmental committee members  
33 for reasonable expenses associated with attending committee meetings as  
34 provided in RCW 43.03.050 and 43.03.060.

35 (5) By December 1, 2002, the small forest landowner office shall  
36 provide a report to the board and the legislature containing:

37 (a) Estimates of the amounts of nonindustrial forests and woodlands  
38 in holdings of twenty acres or less, twenty-one to one hundred acres,

1 one hundred to one thousand acres, and one thousand to five thousand  
2 acres, in western Washington and eastern Washington, and the number of  
3 persons having total nonindustrial forest and woodland holdings in  
4 those size ranges;

5 (b) Estimates of the number of parcels of nonindustrial forests and  
6 woodlands held in contiguous ownerships of twenty acres or less, and  
7 the percentages of those parcels containing improvements used: (i) As  
8 primary residences for half or more of most years; (ii) as vacation  
9 homes or other temporary residences for less than half of most years;  
10 and (iii) for other uses;

11 (c) The watershed administrative units in which significant  
12 portions of the riparian areas or total land area are nonindustrial  
13 forests and woodlands;

14 (d) Estimates of the number of forest practices applications and  
15 notifications filed per year for forest road construction,  
16 silvicultural activities to enhance timber growth, timber harvest not  
17 associated with conversion to nonforest land uses, with estimates of  
18 the number of acres of nonindustrial forests and woodlands on which  
19 forest practices are conducted under those applications and  
20 notifications; and

21 (e) Recommendations on ways the board and the legislature could  
22 provide more effective incentives to encourage continued management of  
23 nonindustrial forests and woodlands for forestry uses in ways that  
24 better protect salmon, other fish and wildlife, water quality, and  
25 other environmental values.

26 (6) By December 1, 2004, and every four years thereafter, the small  
27 forest landowner office shall provide to the board and the legislature  
28 an update of the report described in subsection (5) of this section,  
29 containing more recent information and describing:

30 (a) Trends in the items estimated under subsection (5)(a) through  
31 (d) of this section;

32 (b) Whether, how, and to what extent the forest practices act and  
33 rules contributed to those trends; and

34 (c) Whether, how, and to what extent: (i) The board and  
35 legislature implemented recommendations made in the previous report;  
36 and (ii) implementation of or failure to implement those  
37 recommendations affected those trends.

1       **Sec. 12.** RCW 76.13.120 and 2004 c 102 s 1 are each amended to read  
2 as follows:

3       (1) The legislature finds that the state should acquire easements  
4 along riparian and other sensitive aquatic areas from (~~small~~) family  
5 forest landowners willing to sell or donate such easements to the state  
6 provided that the state will not be required to acquire such easements  
7 if they are subject to unacceptable liabilities. The legislature  
8 therefore establishes a forestry riparian easement program.

9       (2) The definitions in this subsection apply throughout this  
10 section and RCW 76.13.100 and 76.13.110 unless the context clearly  
11 requires otherwise.

12       (a) "Forestry riparian easement" means an easement covering  
13 qualifying timber granted voluntarily to the state by a (~~small~~)  
14 family forest landowner.

15       (b) "Qualifying timber" means those trees covered by a forest  
16 practices application that the (~~small~~) family forest landowner is  
17 required to leave unharvested under the rules adopted under RCW  
18 76.09.055 and 76.09.370 or that is made uneconomic to harvest by those  
19 rules, and for which the (~~small~~) family landowner is willing to grant  
20 the state a forestry riparian easement. "Qualifying timber" is timber  
21 within or bordering a commercially reasonable harvest unit as  
22 determined under rules adopted by the forest practices board, or timber  
23 for which an approved forest practices application for timber harvest  
24 cannot be obtained because of restrictions under the forest practices  
25 rules.

26       (c) "~~Small~~ Family forest landowner" means a landowner meeting  
27 all of the following characteristics: (i) A forest landowner as  
28 defined in RCW 76.09.020 whose interest in the land and timber is in  
29 fee or who has rights to the timber to be included in the forestry  
30 riparian easement that extend at least fifty years from the date the  
31 forest practices application associated with the easement is submitted;  
32 (ii) an entity that has harvested from its own lands in this state  
33 during the three years prior to the year of application an average  
34 timber volume that would qualify the owner as a small harvester under  
35 RCW 84.33.035; and (iii) an entity that certifies at the time of  
36 application that it does not expect to harvest from its own lands more  
37 than the volume allowed by RCW 84.33.035 during the ten years following  
38 application. If a landowner's prior three-year average harvest exceeds

1 the limit of RCW 84.33.035, or the landowner expects to exceed this  
2 limit during the ten years following application, and that landowner  
3 establishes to the department of natural resources' reasonable  
4 satisfaction that the harvest limits were or will be exceeded to raise  
5 funds to pay estate taxes or equally compelling and unexpected  
6 obligations such as court-ordered judgments or extraordinary medical  
7 expenses, the landowner shall be deemed to be a ((small)) family forest  
8 landowner.

9 For purposes of determining whether a person qualifies as a  
10 ((small)) family forest landowner, the small forest landowner office,  
11 created in RCW 76.13.110, shall evaluate the landowner under this  
12 definition, pursuant to RCW 76.13.160, as of the date that the forest  
13 practices application is submitted or the date the landowner notifies  
14 the department that the harvest is to begin with which the forestry  
15 riparian easement is associated. ((A small forest landowner can  
16 include an individual, partnership, corporate, or other nongovernmental  
17 legal entity.)) If a landowner grants timber rights to another entity  
18 for less than five years, the landowner may still qualify as a  
19 ((small)) family forest landowner under this section. If a landowner  
20 is unable to obtain an approved forest practices application for timber  
21 harvest for any of his or her land because of restrictions under the  
22 forest practices rules, the landowner may still qualify as a ((small))  
23 family forest landowner under this section.

24 (d) "Completion of harvest" means that the trees have been  
25 harvested from an area and that further entry into that area by  
26 mechanized logging or slash treating equipment is not expected.

27 (3) The department of natural resources is authorized and directed  
28 to accept and hold in the name of the state of Washington forestry  
29 riparian easements granted by ((small)) family forest landowners  
30 covering qualifying timber and to pay compensation to such landowners  
31 in accordance with subsections (6) and (7) of this section. The  
32 department of natural resources may not transfer the easements to any  
33 entity other than another state agency.

34 (4) Forestry riparian easements shall be effective for fifty years  
35 from the date the forest practices application associated with the  
36 qualifying timber is submitted to the department of natural resources,  
37 unless the easement is terminated earlier by the department of natural

1 resources voluntarily, based on a determination that termination is in  
2 the best interest of the state, or under the terms of a termination  
3 clause in the easement.

4 (5) Forestry riparian easements shall be restrictive only, and  
5 shall preserve all lawful uses of the easement premises by the  
6 landowner that are consistent with the terms of the easement and the  
7 requirement to protect riparian functions during the term of the  
8 easement, subject to the restriction that the leave trees required by  
9 the rules to be left on the easement premises may not be cut during the  
10 term of the easement. No right of public access to or across, or any  
11 public use of the easement premises is created by this statute or by  
12 the easement. Forestry riparian easements shall not be deemed to  
13 trigger the compensating tax of or otherwise disqualify land from being  
14 taxed under chapter 84.33 or 84.34 RCW.

15 (6) Upon application of a (~~small~~) family forest landowner for a  
16 riparian easement that is associated with a forest practices  
17 application and the landowner's marking of the qualifying timber on the  
18 qualifying lands, the small forest landowner office shall determine the  
19 compensation to be offered to the (~~small~~) family forest landowner as  
20 provided for in this section. The small forest landowner office shall  
21 also determine the compensation to be offered to a (~~small~~) family  
22 forest landowner for qualifying timber for which an approved forest  
23 practices application for timber harvest cannot be obtained because of  
24 restrictions under the forest practices rules. The legislature  
25 recognizes that there is not readily available market transaction  
26 evidence of value for easements of this nature, and thus establishes  
27 the following methodology to ascertain the value for forestry riparian  
28 easements. Values so determined shall not be considered competent  
29 evidence of value for any other purpose.

30 The small forest landowner office shall establish the volume of the  
31 qualifying timber. Based on that volume and using data obtained or  
32 maintained by the department of revenue under RCW 84.33.074 and  
33 84.33.091, the small forest landowner office shall attempt to determine  
34 the fair market value of the qualifying timber as of the date the  
35 forest practices application associated with the qualifying timber was  
36 submitted or the date the landowner notifies the department that the  
37 harvest is to begin. Removal of any qualifying timber before the

1 expiration of the easement must be in accordance with the forest  
2 practices rules and the terms of the easement. There shall be no  
3 reduction in compensation for reentry.

4 (7) Except as provided in subsection (8) of this section, the small  
5 forest landowner office shall, subject to available funding, offer  
6 compensation to the (~~small~~) family forest landowner in the amount of  
7 fifty percent of the value determined in subsection (6) of this  
8 section, plus the compliance and reimbursement costs as determined in  
9 accordance with RCW 76.13.140. If the landowner accepts the offer for  
10 qualifying timber that will be harvested pursuant to an approved forest  
11 practices application, the department of natural resources shall pay  
12 the compensation promptly upon (a) completion of harvest in the area  
13 covered by the forestry riparian easement; (b) verification that there  
14 has been compliance with the rules requiring leave trees in the  
15 easement area; and (c) execution and delivery of the easement to the  
16 department of natural resources. If the landowner accepts the offer  
17 for qualifying timber for which an approved forest practices  
18 application for timber harvest cannot be obtained because of  
19 restrictions under the forest practices rules, the department of  
20 natural resources shall pay the compensation promptly upon (i)  
21 verification that there has been compliance with the rules requiring  
22 leave trees in the easement area; and (ii) execution and delivery of  
23 the easement to the department of natural resources. Upon donation or  
24 payment of compensation, the department of natural resources may record  
25 the easement.

26 (8) For approved forest practices applications where the regulatory  
27 impact is greater than the average percentage impact for all (~~small~~)  
28 family landowners as determined by the department of natural resources  
29 analysis under the regulatory fairness act, chapter 19.85 RCW, the  
30 compensation offered will be increased to one hundred percent for that  
31 portion of the regulatory impact that is in excess of the average.  
32 Regulatory impact includes trees left in buffers, special management  
33 zones, and those rendered uneconomic to harvest by these rules. A  
34 separate average or high impact regulatory threshold shall be  
35 established for western and eastern Washington. Criteria for these  
36 measurements and payments shall be established by the small forest  
37 landowner office.

1 (9) The forest practices board shall adopt rules under the  
2 administrative procedure act, chapter 34.05 RCW, to implement the  
3 forestry riparian easement program, including the following:

4 (a) A standard version or versions of all documents necessary or  
5 advisable to create the forestry riparian easements as provided for in  
6 this section;

7 (b) Standards for descriptions of the easement premises with a  
8 degree of precision that is reasonable in relation to the values  
9 involved;

10 (c) Methods and standards for cruises and valuation of forestry  
11 riparian easements for purposes of establishing the compensation. The  
12 department of natural resources shall perform the timber cruises of  
13 forestry riparian easements required under this chapter and chapter  
14 76.09 RCW. Any rules concerning the methods and standards for  
15 valuations of forestry riparian easements shall apply only to the  
16 department of natural resources, (~~small~~) family forest landowners,  
17 and the small forest landowner office;

18 (d) A method to determine that a forest practices application  
19 involves a commercially reasonable harvest, and adopt criteria for  
20 entering into a forest riparian easement where a commercially  
21 reasonable harvest is not possible or a forest practices application  
22 that has been submitted cannot be approved because of restrictions  
23 under the forest practices rules;

24 (e) A method to address blowdown of qualified timber falling  
25 outside the easement premises;

26 (f) A formula for sharing of proceeds in relation to the  
27 acquisition of qualified timber covered by an easement through the  
28 exercise or threats of eminent domain by a federal or state agency with  
29 eminent domain authority, based on the present value of the department  
30 of natural resources' and the landowner's relative interests in the  
31 qualified timber;

32 (g) High impact regulatory thresholds;

33 (h) A method to determine timber that is qualifying timber because  
34 it is rendered uneconomic to harvest by the rules adopted under RCW  
35 76.09.055 and 76.09.370; and

36 (i) A method for internal department of natural resources review of  
37 small forest landowner office compensation decisions under subsection  
38 (7) of this section.

1       **Sec. 13.** RCW 76.13.140 and 2002 c 120 s 3 are each amended to read  
2 as follows:

3       In order to assist (~~small~~) family forest landowners, as defined  
4 in RCW 76.09.450, to remain economically viable, the legislature  
5 intends that the (~~small~~) family forest landowners be able to net  
6 fifty percent of the value of the trees left in the buffer areas. The  
7 amount of compensation offered in RCW 76.13.120 shall also include the  
8 compliance costs for participation in the riparian easement program.  
9 For purposes of this section, "compliance costs" includes the cost of  
10 preparing and recording the easement, and any business and occupation  
11 tax and real estate excise tax imposed because of entering into the  
12 easement. The office may contract with private consultants that the  
13 office finds qualified to perform timber cruises of forestry riparian  
14 easements or to lay out streamside buffers and comply with other forest  
15 and fish regulatory requirements related to the forest riparian  
16 easement program. The department shall reimburse (~~small~~) family  
17 forest landowners for the actual costs incurred for laying out the  
18 streamside buffers and marking the qualifying timber once a contract  
19 has been executed for the forestry riparian easement program.  
20 Reimbursement is subject to the work being acceptable to the  
21 department. The small forest landowner office shall determine how the  
22 reimbursement costs will be calculated.

23       **Sec. 14.** RCW 76.13.150 and 2003 c 311 s 7 are each amended to read  
24 as follows:

25       (1) The legislature finds that a state-led cost-sharing program is  
26 necessary to assist (~~small~~) family forest landowners with removing  
27 and replacing fish passage barriers that were added to their land prior  
28 to May 14, 2003, to help achieve the goals of the forests and fish  
29 report, and to assist (~~small~~) family forest landowners in complying  
30 with the state's fish passage requirements.

31       (2) The small forest landowner office must, in cooperation with the  
32 department of fish and wildlife, establish a program designed to assist  
33 (~~small~~) family forest landowners with repairing or removing fish  
34 passage barriers and assist lead entities in acquiring the data  
35 necessary to fill any gaps in fish passage barrier information. The  
36 small forest landowner office and the department of fish and wildlife  
37 must work closely with lead entities or other local watershed groups to

1 make maximum use of current information regarding the location and  
2 priority of current fish passage barriers. Where additional fish  
3 passage barrier inventories are necessary, funding will be sought for  
4 the collection of this information. Methods, protocols, and formulas  
5 for data gathering and prioritizing must be developed in consultation  
6 with the department of fish and wildlife. The department of fish and  
7 wildlife must assist in the training and management of fish passage  
8 barrier location data collection.

9 (3) The small forest landowner office must actively seek out  
10 funding for the program authorized in this section. The small forest  
11 landowner office must work with consenting landowners to identify and  
12 secure funding from local, state, federal, tribal, or nonprofit habitat  
13 restoration organizations and other private sources, including the  
14 salmon recovery funding board, the United States department of  
15 agriculture, the United States department of transportation, the  
16 Washington state department of transportation, the United States  
17 department of commerce, and the federal highway administration.

18 (4)(a) Except as otherwise provided in this subsection, the small  
19 forest landowner office, in implementing the program established in  
20 this section, must provide the highest proportion of public funding  
21 available for the removal or replacement of any fish passage barrier.

22 (b) In no case shall a (~~small~~) family forest landowner be  
23 required to pay more than the lesser of either: (i) Twenty-five  
24 percent of any costs associated with the removal or replacement of a  
25 particular fish passage barrier; or (ii) five thousand dollars for the  
26 removal or replacement of a particular fish passage barrier. No  
27 (~~small~~) family forest landowner shall be required to pay more than  
28 the maximum total annual costs in (c) of this subsection.

29 (c) The portion of the total cost of removing or replacing fish  
30 passage barriers that a (~~small~~) family forest landowner must pay in  
31 any calendar year shall be determined based on the average annual  
32 timber volume harvested from the landowner's lands in this state during  
33 the three preceding calendar years, and whether the fish passage  
34 barrier is in eastern or western Washington.

35 (i) In western Washington (west of the Cascade Crest), a (~~small~~)  
36 family forest landowner who has harvested an average annual timber  
37 volume of less than five hundred thousand board feet shall not be  
38 required to pay more than a total of eight thousand dollars during that

1 calendar year, a ((~~small~~)) family forest landowner who has harvested an  
2 annual average timber volume between five hundred thousand and nine  
3 hundred ninety-nine thousand board feet shall not be required to pay  
4 more than a total of sixteen thousand dollars during that calendar  
5 year, a ((~~small~~)) family forest landowner who has harvested an average  
6 annual timber volume between one million and one million four hundred  
7 ninety-nine thousand board feet shall not be required to pay more than  
8 a total of twenty-four thousand dollars during that calendar year, and  
9 a ((~~small~~)) family forest landowner who has harvested an average annual  
10 timber volume greater than or equal to one million five hundred  
11 thousand board feet shall not be required to pay more than a total of  
12 thirty-two thousand dollars during that calendar year, regardless of  
13 the number of fish passage barriers removed or replaced on the  
14 landowner's lands during that calendar year.

15 (ii) In eastern Washington (east of the Cascade Crest), a ((~~small~~))  
16 family forest landowner who has harvested an average annual timber  
17 volume of less than five hundred thousand board feet shall not be  
18 required to pay more than a total of two thousand dollars during that  
19 calendar year, a ((~~small~~)) family forest landowner who has harvested an  
20 annual average timber volume between five hundred thousand and nine  
21 hundred ninety-nine thousand board feet shall not be required to pay  
22 more than a total of four thousand dollars during that calendar year,  
23 a ((~~small~~)) family forest landowner who has harvested an average annual  
24 timber volume between one million and one million four hundred ninety-  
25 nine thousand board feet shall not be required to pay more than a total  
26 of twelve thousand dollars during that calendar year, and a ((~~small~~))  
27 family forest landowner who has harvested an average annual timber  
28 volume greater than or equal to one million five hundred thousand board  
29 feet shall not be required to pay more than a total of sixteen thousand  
30 dollars during that calendar year, regardless of the number of fish  
31 passage barriers removed or replaced on the landowner's lands during  
32 that calendar year.

33 (iii) Maximum total annual costs for ((~~small~~)) family forest  
34 landowners with fish passage barriers in both western and eastern  
35 Washington shall be those specified under (c)(i) and (ii) of this  
36 subsection.

37 (d) If an existing fish passage barrier on land owned by a  
38 ((~~small~~)) family forest landowner was installed under an approved

1 forest practices application or notification, and hydraulics approval,  
2 and that fish passage barrier becomes a high priority for fish passage  
3 based on the watershed ranking in RCW ((76.13.150)) 77.12.755, one  
4 hundred percent public funding shall be provided.

5 (5) If a ((small)) family forest landowner is required to  
6 contribute a portion of the funding under the cost-share program  
7 established in this section, that landowner may satisfy his or her  
8 required proportion by providing either direct monetary contributions  
9 or in-kind services to the project. In-kind services may include  
10 labor, equipment, materials, and other landowner-provided services  
11 determined by the department to have an appropriate value to the  
12 removal of a particular fish passage barrier.

13 (6)(a) The department, using fish passage barrier assessments and  
14 ranked inventory information provided by the department of fish and  
15 wildlife and the appropriate lead entity as delineated in RCW  
16 77.12.755, must establish a prioritized list for the funding of fish  
17 passage barrier removals on property owned by ((small)) family forest  
18 landowners that ensures that funding is provided first to the known  
19 fish passage barriers existing on forest land owned by ((small)) family  
20 forest landowners that cause the greatest harm to public resources.

21 (b) As the department collects information about the presence of  
22 fish passage barriers from submitted checklists, it must share this  
23 information with the department of fish and wildlife and the technical  
24 advisory groups established in RCW 77.85.070. If the addition of the  
25 information collected in the checklists or any other changes to the  
26 scientific instruments described in RCW 77.12.755 alter the analysis  
27 conducted under RCW 77.12.755, the department must alter the funding  
28 order appropriately to reflect the new information.

29 (7) The department may accept commitments from ((small)) family  
30 forest landowners that they will participate in the program to remove  
31 fish passage barriers from their land at any time, regardless of the  
32 funding order given to the fish passage barriers on a particular  
33 landowner's property.

34 **Sec. 15.** RCW 76.13.160 and 2004 c 102 s 2 are each amended to read  
35 as follows:

36 When establishing a forest riparian easement program applicant's  
37 status as a qualifying ((small)) family forest landowner pursuant to

1 RCW 76.13.120, the department shall not review the applicant's timber  
2 harvest records, or any other tax-related documents, on file with the  
3 department of revenue. The department of revenue may confirm or deny  
4 an applicant's status as a (~~small~~) family forest landowner at the  
5 request of the department; however, for the purposes of this section,  
6 the department of revenue may not disclose more information than  
7 whether or not the applicant has reported a harvest or harvests  
8 totaling greater than or less than the qualifying thresholds  
9 established in RCW 76.13.120. Nothing in this section, or RCW  
10 84.33.280, prohibits the department from reviewing aggregate or general  
11 information provided by the department of revenue.

--- END ---